

### Remarks

Applicant's response to the final Office Action mailed June 7, 2010 is below. Claims 1-19 are currently pending in the application. Claims 1, 8, 9, 11, and 17-18 have been amended through this Response, without adding new matter. Upon entry of these amendments, claims 1-19 will remain pending in the application.

#### I. Claim Rejections – 35 U.S.C. § 103

Claims 1-3, 5-7, 9-16, 18 and 19 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,899,941 to Nishijima *et al.* (“*Nishijima*”) in view of U.S. Publication No. 2004/0010316 to William *et al.* (“*William*”). Through this Response, Applicant has amended claims 1 and 11 to clarify that “at least a portion of each base part is coated in a coating material that is based on a chromium-nickel alloy.” The cited combination of *Nishijima* and *William* fails to teach base parts coated in a coating material as claimed.

With reference to claim 8, the Office Action alleges the claimed chromium-nickel alloy coating material would have been obvious in view of U.S. Patent No. 6,322,588 to Ogle *et al.* (“*Ogle*”). In particular, the Office Action relies on the following *Olge* passage:

Preferred metals for inclusion as a coating in the composite are biocompatible. In other words, the metals are suitable for contacting a patient's bodily fluids or tissue. One class of biocompatible metals are essentially inert and stable in contact with the patient's blood stream. Such inert metals include, for example, titanium, cobalt, stainless steel, nickel, iron alloys, cobalt alloys, such as Elgiloy®, a cobalt-chromium-nickel alloy, and MP35N, a nickel-cobalt-chromium-molybdenum alloy, and Nitinol®, a nickel-titanium alloy.

*Olge*; col. 4, lns. 13-23. Notably, the claimed alloy, chromium-nickel alloy, is not included among the list of coating materials identified in *Olge*. It appears that *Olge* either did not contemplate using chromium-nickel alloy coating materials or that *Olge* purposefully excluded such coating materials.

*Olge* teaches making the coating material from (i) certain specific metals, such as cobalt or nickel; (ii) any alloy of certain specific alloy classes, such as any iron alloy or any cobalt alloy, or (iii) certain specific nickel alloys, such as any cobalt-chromium-nickel alloy, any nickel-cobalt-chromium-molybdenum alloy, or any nickel-titanium alloy. If *Olge* had contemplated using any nickel alloy, it appears that *Olge* would have included nickel alloys among the listed of acceptable alloy classes. Instead, the only alloys broadly identified as classes are “iron alloys” and “cobalt alloys”. Furthermore, if *Olge* had contemplated using a chromium-nickel alloy in particular, it appears that *Olge* would have included chromium-nickel alloys among the specifically identified nickel alloys. Instead, the only nickel alloys

that are specifically identified are cobalt-chromium-nickel alloy, nickel-cobalt-chromium-molybdenum alloy, and nickel-titanium alloy. The claimed alloy, chromium-nickel alloy, is omitted.

The base references do not remedy this deficiency. *Nishijima* does not teach coating materials in particular, but it does teach certain materials for use on the contact surfaces, such as stainless steel, titanium, tantalum, platinum, and alloys thereof, and aluminum, zirconium, and ceramic materials. See *Nishijima*; col. 5, lns. 28-39. Neither chromium-nickel alloys in particular, nor nickel alloys in general, are described. Similarly, *William* teaches certain materials for use with implants, such as titanium or titanium alloys, stainless steel, cobalt-chromium alloys, vanadium, ceramic or ceramic materials, such as aluminum oxide and zirconium oxide ceramic, nickel titanium alloys, shape memory alloys, plastics, carbon fiber reinforced polymers known commercially as “Peek” (polyetherether ketone) or “Ultrapeek” (polyether ketone, ether ketone, ketone), polycarbonate, polypropylene, polyethylene, polysulfone plastics material filled with glass or carbon fibers Kevlar, composite material, various metallic alloys, elastomers, or other biologically-compatible, substantially chemically inert materials. Neither chromium-nickel alloys in particular, nor nickel alloys in general, are described. For at least these reasons, the claims would not have been obvious.

Claims 8 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nishijima* in view of *William* and in further view of Ogle. Applicant submits that these claims are patentable for at least the reasons described above with reference to the independent claims from which they depend. Therefore, Applicant asks the Examiner to withdraw the rejection.

**Conclusion**

Applicant submits that the pending claims are novel and would not have been obvious over the references of record. Therefore, Applicant respectfully asks the Examiner to reconsider the rejections and to allow each of the claims. Applicant invites the Examiner to call the Attorney below at any time if the Examiner believes a telephone conversation would facilitate the examination of this application.

Respectfully submitted,

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